

AMENDED IN SENATE MAY 27, 2004
AMENDED IN SENATE APRIL 22, 2004
AMENDED IN SENATE JUNE 24, 2003
AMENDED IN ASSEMBLY JUNE 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Daucher

February 21, 2003

An act to amend Sections 1368.2, 1746, and 1749 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as amended, Daucher. Hospices.

The California Hospice Licensure Act of 1990 provides for the licensure of hospices by the State Department of Health Services in order to ensure the health and safety of patients experiencing the last phases of life due to the existence of a terminal disease, and to permit qualified persons, political subdivisions of the state, and governmental agencies to comply with requirements of federal law regarding the provision of hospice care.

This bill would authorize the provision of additional preliminary services, as defined, to persons who have not elected to become a hospice patient if those services are determined to be needed, and would make these additional services and related definitions inapplicable to group health care service plans.

Existing law requires licensed hospice services to comply with the “Standards for Quality Hospice Care 1996” of the California State Hospice Association. Existing law makes violation of hospice licensure provisions a crime.

The bill would, instead, require licensed hospice services to comply with the “Standards for Quality Hospice Care 2003” of the California Hospice and Palliative Care Association. By changing the definition of a crime, this bill would impose a state-mandated local program.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1368.2 of the Health and Safety Code
- 2 is amended to read:
- 3 1368.2. (a) On and after January 1, 2002, every group health
- 4 care service plan contract, except a specialized health care service
- 5 plan contract, which is issued, amended, or renewed, shall include
- 6 a provision for hospice care.
- 7 (b) The hospice care shall at a minimum be equivalent to
- 8 hospice care provided by the federal Medicare program pursuant
- 9 to Title XVIII of the Social Security Act. The hospice care
- 10 provided under this section is not required to include preliminary
- 11 services set forth in subdivision (d) of Section 1749.
- 12 (c) The following are applicable to this section and to
- 13 paragraph (7) of subdivision (b) of Section 1345:
- 14 (1) The definitions in Section 1746, except for subdivisions (o)
- 15 and (p) of that section.



(2) The “federal regulations” which means the regulations adopted for hospice care under Title XVIII of the Social Security Act in Title 42 of the Code of Federal Regulations, Chapter IV, Part 418, except Subparts A, B, G, and H, and any amendments or successor provisions thereto.

(d) The director no later than January 1, 2001, shall adopt regulations to implement this section. The regulations shall meet all of the following requirements:

(1) Be consistent with all material elements of the federal regulations that are not by their terms applicable only to eligible Medicare beneficiaries. If there is a conflict between a federal regulation and any state regulation, other than those adopted pursuant to this section, the director shall adopt the regulation that is most favorable for plan subscribers, members or enrollees to receive hospice care.

(2) Be consistent with any other applicable federal or state laws.

(3) Be consistent with the definitions of Section 1746, except for subdivisions (o) and (p) of that section.

(e) This section is not applicable to the subscribers, members, or enrollees of a health care service plan who elect to receive hospice care under the Medicare program.

(f) The director, commencing on January 15, 2002, and on each January 15th thereafter, shall report to the Advisory Committee on Managed Health Care any changes in the federal regulations that differ materially from the regulations then in effect for this section. The director shall include with the report written text for proposed changes to the regulations then in effect for this section needed to meet the requirements of subdivision (d).

SEC. 2. Section 1746 of the Health and Safety Code is amended to read:

1746. For the purposes of this chapter, the following definitions apply:

(a) “Bereavement services” means those services available to the surviving family members for a period of at least one year after the death of the patient, including an assessment of the needs of the bereaved family and the development of a care plan that meets these needs, both prior to and following the death of the patient.

(b) “Hospice” means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the

1 physical, emotional, social, and spiritual discomforts of an
2 individual who is experiencing the last phases of life due to the
3 existence of a terminal disease, and provide supportive care to the
4 primary caregiver and the family of the hospice patient, and that
5 meets all of the following criteria:

6 (1) Considers the patient and the patient's family, in addition to
7 the patient, as the unit of care.

8 (2) Utilizes an interdisciplinary team to assess the physical,
9 medical, psychological, social, and spiritual needs of the patient
10 and the patient's family.

11 (3) Requires the interdisciplinary team to develop an overall
12 plan of care and to provide coordinated care that emphasizes
13 supportive services, including, but not limited to, home care, pain
14 control, and limited inpatient services. Limited inpatient services
15 are intended to ensure both continuity of care and appropriateness
16 of services for those patients who cannot be managed at home
17 because of acute complications or the temporary absence of a
18 capable primary caregiver.

19 (4) Provides for the palliative medical treatment of pain and
20 other symptoms associated with a terminal disease, but does not
21 provide for efforts to cure the disease.

22 (5) Provides for bereavement services following death to assist
23 the family in coping with social and emotional needs associated
24 with the death of the patient.

25 (6) Actively utilizes volunteers in the delivery of hospice
26 services.

27 (7) To the extent appropriate, based on the medical needs of the
28 patient, provides services in the patient's home or primary place
29 of residence.

30 (c) "Inpatient care arrangements" means arranging for those
31 short inpatient stays that may become necessary to manage acute
32 symptoms or because of the temporary absence, or need for
33 respite, of a capable primary caregiver. The hospice shall arrange
34 for these stays, ensuring both continuity of care and the
35 appropriateness of services.

36 (d) "Medical direction" means those services provided by a
37 licensed physician and surgeon who is charged with the
38 responsibility of acting as a consultant to the interdisciplinary
39 team, a consultant to the patient's attending physician and surgeon,

1 as requested, with regard to pain and symptom management, and
2 a liaison with physicians and surgeons in the community.

3 (e) “An interdisciplinary team” means the hospice care team
4 that includes, but is not limited to, the patient and patient’s family,
5 a physician and surgeon, a registered nurse, a social worker, a
6 volunteer, and a spiritual caregiver. The team shall be coordinated
7 by a registered nurse and shall be under medical direction. The
8 team shall meet regularly to develop and maintain an appropriate
9 plan of care.

10 (f) “Plan of care” means a written plan developed by the
11 attending physician and surgeon, the medical director or physician
12 and surgeon designee, and the interdisciplinary team that
13 addresses the needs of a patient and family admitted to the hospice
14 program. The hospice shall retain overall responsibility for the
15 development and maintenance of the plan of care and quality of
16 services delivered.

17 (g) “Skilled nursing services” means nursing services
18 provided by or under the supervision of a registered nurse under
19 a plan of care developed by the interdisciplinary team and the
20 patient’s physician and surgeon to a patient and his or her family
21 that pertain to the palliative, supportive services required by
22 patients with a terminal illness. Skilled nursing services include,
23 but are not limited to, patient assessment, evaluation and case
24 management of the medical nursing needs of the patient, the
25 performance of prescribed medical treatment for pain and
26 symptom control, the provision of emotional support to both the
27 patient and his or her family, and the instruction of caregivers in
28 providing personal care to the patient. Skilled nursing services
29 shall provide for the continuity of services for the patient and his
30 or her family. Skilled nursing services shall be available on a
31 24-hour on-call basis.

32 (h) “Social service/counseling services” means those
33 counseling and spiritual care services that assist the patient and his
34 or her family to minimize stresses and problems that arise from
35 social, economic, psychological, or spiritual needs by utilizing
36 appropriate community resources, and maximize positive aspects
37 and opportunities for growth.

38 (i) “Terminal disease” or “terminal illness” means a medical
39 condition resulting in a prognosis of life of one year or less, if the
40 disease follows its natural course.

(j) “Volunteer services” means those services provided by trained hospice volunteers who have agreed to provide service under the direction of a hospice staff member who has been designated by the hospice to provide direction to hospice volunteers. Hospice volunteers may be used to provide support and companionship to the patient and his or her family during the remaining days of the patient’s life and to the surviving family following the patient’s death.

(k) “Multiple location” means a location or site from which a hospice makes available basic hospice services within the service area of the parent agency. A multiple location shares administration, supervision, policies and procedures, and services with the parent agency in a manner that renders it unnecessary for the site to independently meet the licensing requirements.

(l) “Home health aide” has the same meaning as set forth in subdivision (c) of Section 1727.

(m) “Home health aide services” means those services described in subdivision (d) of Section 1727 that provide for the personal care of the terminally ill patient and the performance of related tasks in the patient’s home in accordance with the plan of care in order to increase the level of comfort and to maintain personal hygiene and a safe, healthy environment for the patient.

(n) “Parent agency” means the part of the hospice that is licensed pursuant to this chapter and that develops and maintains administrative controls of multiple locations. All services provided by the multiple location and parent agency are the responsibility of the parent agency.

(o) “Palliative” refers to medical treatment, interdisciplinary care, or consultation provided to the patient or family members, or both, that have as its primary purposes preventing or relieving suffering and enhancing the quality of life, *rather than curing the disease*, as described in subdivision (b) of Section 1339.31, of a patient who has an end-stage medical condition.

(p) “Preliminary services” means those services authorized pursuant to subdivision (d) of Section 1749.

SEC. 3. Section 1749 of the Health and Safety Code is amended to read:

1749. (a) To qualify for a license under this chapter, an applicant shall satisfy all of the following:

1 (1) Be of good moral character. If the applicant is a franchise,
2 franchisee, firm, association, organization, partnership, business
3 trust, corporation, company, political subdivision of the state, or
4 governmental agency, the person in charge of the hospice for
5 which the application for a license is made shall be of good moral
6 character.

7 (2) Demonstrate the ability of the applicant to comply with this
8 chapter and any rules and regulations promulgated under this
9 chapter by the state department.

10 (3) File a completed application with the state department that
11 was prescribed and furnished pursuant to Section 1748.

12 (b) In order for a person, political subdivision of the state, or
13 other governmental agency to be licensed as a hospice it shall
14 satisfy the definition of a hospice contained in Section 1746, and
15 also provide, or make provision for, the following basic services:

16 (1) Skilled nursing services.

17 (2) Social services/counseling services.

18 (3) Medical direction.

19 (4) Bereavement services.

20 (5) Volunteer services.

21 (6) Inpatient care arrangements.

22 (7) Home health aide services.

23 (c) The services required to be provided pursuant to
24 subdivision (b) shall be provided in compliance with the
25 “Standards for Quality Hospice Care, 2003,” as available from the
26 California Hospice and Palliative Care Association, until the state
27 department adopts regulations establishing alternative standards
28 pursuant to subdivision (e).

29 (d) (1) Notwithstanding any provision of law to the contrary,
30 to meet the unique needs of the community, licensed hospices may
31 provide, in addition to hospice services authorized in this chapter,
32 any of the following preliminary services for any person in need
33 of those services, as determined by the physician, if any, in charge
34 of the care of a patient, or in the case of a disaster or other
35 emergency, as determined by the person in charge of the provision
36 of emergency medical services at the scene of the disaster or other
37 emergency, or at the request of the patient or family:

38 (A) Preliminary palliative care consultations.

39 (B) Preliminary counseling and care planning.

1 (C) Emergency grief response teams services, including
2 bereavement support.

3 (2) Preliminary services authorized pursuant to this
4 subdivision may be provided to a person who does not have a
5 terminal prognosis or who has not elected to receive hospice
6 services.

7 (e) The state department may adopt regulations establishing
8 standards for any or all of the services required to be provided
9 under subdivision (b). The regulations of the state department
10 adopted pursuant to this subdivision shall supersede the standards
11 referenced in subdivision (c) to the extent the regulations duplicate
12 or replace those standards.

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

